

Exhibit A

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

**DAVID AGOADO, LEEANN MCNALLY,
CRAIG MOORE, CHRIS PIERRE,
THOMAS SHARKEY AND DOREEN
VAZQUEZ**, individually and on behalf of all
others similarly situated,

Plaintiffs,

- against -

**MIDLAND FUNDING, LLC, MIDLAND
FUNDING, LLC DBA IN NEW YORK AS
MIDLAND FUNDING OF DELAWARE,
LLC, MIDLAND CREDIT
MANAGEMENT, INC., RUBIN &
ROTHMAN, LLC, FORSTER & GARBUS
LLP, COHEN & SLAMOWITZ, LLP and
PRESSLER AND PRESSLER LLP**

Defendants.

Civil Action No. 2:14-cv-18-WFK-ST

**DOCUMENTS SUBMITTED IN SUPPORT OF THE MIDLAND DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT AND IN OPPOSITION TO
PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

1. Notice of Motion for Summary Judgment with Request for Oral Argument.
2. Memorandum of Law in Support of Motion for Summary Judgment.
3. Local Rule 56.1 Statement of Material Facts.
4. Attorney Declaration of Matthew B. Johnson
 - a. Johnson-Agoado Ex. A: Default judgment entered against Agoado as to his former HSBC account in Case No. 765/12, dated Aug. 28, 2012.
 - b. Johnson-Agoado Ex. B: Default judgment entered against Agoado as to his former Chase account in Case No. 767/12, dated August 28, 2021.
 - c. Johnson-Sharkey Ex. A: Default judgment entered against Sharkey as to his former Bank of America account in Case No. 50922/12, dated May 29, 2012.

- d. Johnson-Sharkey Ex. B: Voluntary Petition for Chapter 7 Bankruptcy from Case No. 8-19-75076-las (Bankr. E.D.N.Y.), dated July 19, 2019.
- e. Johnson-Sharkey Ex. C: Final Decree discharging trustee and closing Sharkey's Chapter 7 case from Case No. 8-19-75076-las (Bankr. E.D.N.Y.), dated Nov. 6, 2019.
- 5. Exhibit M-A: Excerpts of the deposition of Midland Corporate Representative Xenia Murphy, taken on June 25, 2015.
- 6. Exhibit M-B: Excerpts of the deposition of former Midland employee/current Midland temporary employee Ashley M. Hoffman, taken on February 26, 2016.
- 7. Exhibit M-C: Excerpts of the deposition of Midland in-house counsel N. Rita Melconian, taken on March 16, 2016.
- 8. Exhibit M-D: Excerpts of the deposition of Joel Leiderman, senior associate attorney at co-defendant Forster & Garbus, LLP.
- 9. Exhibit M-E: Excerpts of the deposition of Frank Rothman, attorney and executive director of co-defendant Rubin & Rothman, LLC.
- 10. Exhibit M-F: Excerpts of the deposition of David B. Warshaw, partner and chief compliance officer of co-defendant Pressler & Pressler, LLP.
- 11. Exhibit M-G: Excerpts of the deposition of Mitchell Selip, partner at co-defendant Selip & Stylianou, LLP, f/k/a Cohen & Slamowitz, LLP.
- 12. Exhibit M-H: Excerpts of the deposition of David A. Cohen, partner at co-defendant Selip & Stylianou, LLP, f/k/a Cohen & Slamowitz, LLP.
- 13. Exhibit M-I: Excerpts of the deposition of Scott Miller, collection manager of Forster & Garbus, LLP.
- 14. Exhibit M-J: Excerpts of the deposition of Plaintiff David Agoado.
 - a. Ex. M-J(a) Fax sent to Cohen & Slamowitz
 - b. Ex. M-J(b) Agoado HSBC Account Documents
 - c. Ex. M-J(c) Assignment and Bill of Sale, Closing Statement, Account Schedule and Affidavit of Bulk Sale of Accounts reflecting a sale of accounts by HSBC Consumer Lending.

- d. Ex. M-J(d) Affidavit in support of motion for default judgment executed by Jankowski.
- e. Ex. M-J(e) Copy of default judgment entered against Agoado on Chase account in Case No. 767/12, dated Aug. 28, 2012.

15. Exhibit M-K: Excerpts of the deposition of Plaintiff LeAnn (DeRosa) McNally.

- a. Ex. M-K(a) Letter from Forster & Garbus to McNally.
- b. Ex. M-K(b) Summons and Complaint to McNally.
- c. Ex. M-K(c) Affidavit of Service.
- d. Ex. M-K(d) Letter from Forster & Garbus to McNally
- e. Ex. M-K(e) Judgment and letter from Forster & Garbus to McNally
- f. Ex. M-K(f) Letter from Forster & Garbus to McNally.

16. Exhibit M-L: Excerpts of the deposition of Plaintiff Craig Moore.

- a. Ex. M-L(a) Summons and Complaint from Wells Fargo to Moore.
- b. Ex. M-L(b) Summons and Complaint from Pressler & Pressler to Moore.
- c. Ex. M-L(c) Affidavit of Service.
- d. Ex. M-L(d) Letter to Moore from Pressler & Pressler.
- e. Ex. M-L(e) Letter to Moore from Pressler & Pressler.
- f. Ex. M-L(f) Letter to Moore from Pressler & Pressler.
- g. Ex. M-L(g) Account statement to Moore.
- h. Ex. M-L(h) Account statement to Moore.

17. Exhibit M-M: Excerpts of the deposition of Plaintiff Christopher Pierre.

- a. Ex. M-M(a) Pierre Order to Show Cause and related documents.

b. Ex. M-M(b) Affidavit of Sale.

18. Exhibit M-N: Excerpts of the deposition of Plaintiff Thomas Sharkey.

a. Ex. M-N(a) Affidavit of Facts.

b. Ex. M-N(b) Letter from Forster & Garbus to Sharkey.

c. Ex. M-N(c) April 29 Bank of America Statement to Sharkey.

19. Exhibit M-O: Excerpts of the deposition of Plaintiff Doreen Vazquez.

a. Ex. M-O(a) Summons from Rubin & Rothman to Vazquez.

b. Ex. M-O(b) Letter from Rubin & Rothman to Vazquez.

20. Midland Xenia Murphy Affidavit re MCM Firm Manual

a. Exhibit M-P: MCM Firm Manual Excerpts (filed under seal)

21. Midland Xenia Murphy Affidavit re Media Availability Report

a. Exhibit M-Q: Midland Media Availability Report (filed under seal)

21. Midland Xenia Murphy - Agoado HSBC Affidavit.

a. Murphy-Agoado Ex. A Agoado Household purchase agreement – filed under seal (Bates stamped MCM-867-891)

b. Murphy-Agoado Ex. B Information provided by HSBC Consumer Lending (USA) Inc. pursuant to the Bill of Sale/Assignment of Accounts (Bates stamped MCM-130)

c. Murphy-Agoado Ex. C Letter from MCM to Agoado re Agoado HSBC account (Bates stamped MCM-127 - 129)

d. Murphy-Agoado Ex. D Arbitration rider, personal credit line account agreement and revolving loan voucher obtained by MCM from HSBC (Bates stamped S&S98-102)

e. Murphy-Agoado Ex. E Affidavit of Kayla Haag in Support of MF's Motion for Default Judgment against Agoado (Bates stamped S&S114 – 117)

22. Midland Xenia Murphy - Agoado Chase Affidavit.

- f. Murphy-Agoado Ex. F Chase Account Purchase Agreement – filed under seal (Bates stamped MCM-1223 – 1248)
- g. Murphy-Agoado Ex. G Information provided by Chase at the time of acquisition of Agoado's account by MF (Bates stamped MCM-268)
- h. Murphy-Agoado Ex. H Statements for Agoado Chase account, provided by Chase upon purchase of Agoado's debt by MF (Bates stamped S&S 42 – 81)
- i. Murphy-Agoado Ex. I Letter from MCM to Agoado re Chase Account (Bates stamped S&S 38 – 40)
- j. Murphy-Agoado Ex. J Credit agreements provided by Chase to MF (Bates stamped MCM-55 – 159)
- k. Murphy-Agoado Ex. K Affidavit of Kayla Haag in Support of Motion for Default Judgment (Bates stamped S&S 125 – 128)
- l. Murphy-Agoado Ex. L Affidavit and Bill of Sale for Agoado Chase account (Bates stamped MCM-223 – 227)

23. Midland Xenia Murphy - McNally Affidavit.

- a. Murphy-McNally Ex. A Account purchase agreement between HSBC Consumer Lending (USA), Inc. and MF – filed under seal (Bates stamped MCM-967 – 991)
- b. Murphy-McNally Ex. B Information provided by HSBC Consumer Lending, (USA), Inc., pursuant to the Bill of Sale/Assignment of McNally Account to MF (Bates stamped MCM-314)
- c. Murphy-McNally Ex. C Terms and Conditions of McNally Account (Bates stamped MCM-316 – 317)
- d. Murphy-McNally Ex. D McNally loan document executed by McNally (Bates stamped MCM-318 – 319)
- e. Murphy-McNally Ex. E Bates stamped MCM-311 to MCM 313 copy of Notice of New Ownership *And* Pre-Legal Review dated October 19, 2011.

- f. Murphy-McNally Ex. F Affidavit of Kyla Haag in Support of MF's Motion for Default Judgment against McNally (Bates stamped F&G 165 – 168)
- g. Murphy-McNally Ex. G Affidavit of Nancy Kohls in Support of MF's Motion for Default Judgment against McNally (Bates stamped F&G 7 – 10)

24. Midland Xenia Murphy - Moore Affidavit

- a. Murphy-Moore Ex. A Account Purchase Agreement – filed under seal (Bates stamped MCM-892 - 941)
- b. Murphy-Moore Ex. B Information provided by General Electric Capital Corporation GE Money Bank to MF regarding Moore's GE Money Bank account (Bates stamped MCM- 365)
- c. Murphy-Moore Ex. C Two collection letters from MCM (Bates stamped MCM-357 – 358 and MCM-361 – 362)
- d. Murphy-Moore Ex. D Affidavit of Paula Hansen in Support of MF's Motion for Default Judgment against Moore (Bates Stamped P&P # 164 - #167)

25. Midland Xenia Murphy - Pierre Affidavit

- a. Murphy-Pierre Ex. A Confidential purchase agreement between Chase and MF – filed under seal (Bates stamped MCM-992 – 1016)
- b. Murphy-Pierre Ex. B Information provided by Chase pursuant to the Bill of Sale/Assignment of Accounts transferred on or about 9/21/10 (Bates stamped MCM-4)
- c. Murphy-Pierre Ex. C Pierre's former Chase account statements dated 8/3/07 through 1/3/09 (Bate stamped MCM-10 to MCM-45)
- d. Murphy-Pierre Ex. D Terms and conditions terms and that governed Pierre's account (Bates stamped MCM-53-60)
- e. Murphy-Pierre Ex. E Letter from MCM to Pierre: “Notice of New Ownership And Pre-Legal Review,” dated 9/26/10 (Bates stamped MCM-7 to 9)

- f. Murphy-Pierre Ex. F Affidavit of Ashley Hoffmann in Support of MF's Motion for Default Judgment against Pierre dated 3/9/11 (Bates stamped RR#16 - #19)

26. Midland Xenia Murphy- Sharkey Affidavit

- a. Murphy-Sharkey Ex. A Confidential purchase agreement between FIA Card Services and MF – filed under seal (Bates stamped MCM-943 - 966)
- b. Murphy-Sharkey Ex. B Information provided by FIA Card Services regarding Sharkey's former Bank of America account pursuant to the Bill of Sale/Assignment of Accounts transferred on or about 3/28/11 (Bates stamped MCM-667)
- c. Murphy-Sharkey Ex. C Charge-off statement provided by FIA Card Services (Bates stamped MCM-670 - 671)
- d. Murphy-Sharkey Ex. D Initial collection letter from MCM to Sharkey titled "Notice of New Ownership And Pre-Legal Review, dated 3/21/2011 (Bates stamped MCM-601 –603)
- e. Murphy-Sharkey Ex. E Affidavit of Nancy Kohls in Support of MF's Motion for Default Judgment against Sharkey dated 5/15/12 (Bates stamped F&G 98 - 0000)

27. Midland Xenia Murphy - Vazquez Affidavit

- a. Murphy-Vazquez Ex. A Confidential purchase agreement between SquareTwo Financial Corp. and MF – filed under seal (Bates stamped MCM-1017 – 1054)
- b. Murphy-Vazquez Ex. B Information provided by SquareTwo Financial Corp., CACV of Colorado, LLC and CACH LLC pursuant to the Bill of Sale/Assignment of Accounts transferred on or about October 27, 2010 (Bates stamped MCM-68)
- c. Murphy-Vazquez Ex. C Statement from Vazquez's former Chase Account (Bates stamped MCM-69 -70)
- d. Murphy-Vazquez Ex. D Terms and condition applicable to Vazquez' Chase account (Bates stamped MCM-71 -79)

- e. Murphy-Vazquez Ex. E Initial collection letter from MCM to Vazquez titled "Notice of New ownership and Pre-Legal Review," dated October 30, 2010 (Bates stamped MCM-80-82)
- f. Murphy-Vazquez Ex. F Affidavit of Susan Rasmussen in Support of MF's Motion for Default Judgment against Vazquez (Bates stamped R&R #)

28. Second Attorney Declaration of Matthew B. Johnson

- a. Exhibit M-R: Additional excerpts of the deposition of Plaintiff Leeann McNally.

Respectfully submitted,

Dated: Astoria, New York
January 13, 2022

GORDON REES SCULLY MANSUKHANI, LLP



Matthew B. Johnson
One Battery Park Plaza, 28th Floor
New York, New York 10004
Tel: 212.402.2298
Fax: 212.269.5505
MBJohnson@grsm.com
Attorneys for the Midland Defendants